

AMENDED IN ASSEMBLY JUNE 12, 2006

AMENDED IN ASSEMBLY APRIL 17, 2006

AMENDED IN ASSEMBLY APRIL 4, 2006

## SENATE BILL

**No. 764**

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### Introduced by Senator Lowenthal

February 22, 2005

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An act to add Sections 40459.2 and 40459.3 to the Health and Safety Code, relating to air quality.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 764, as amended, Lowenthal. Air resources: South Coast Air Quality Management District: ports.

(1) Existing law provides for the regulation of ports and harbors. Existing law, the Lewis-Presley Air Quality Management Act, establishes the South Coast Air Quality Management District (south coast district) as the sole and exclusive local agency within those portions of the Counties of Los Angeles, Orange, Riverside, and San Bernardino that are included within the South Coast Air Basin.

This bill would require the Port of Los Angeles and the Port of Long Beach to develop a baseline for air quality for their respective ports, in consultation with specified agencies, thereby creating a state-mandated local program. This bill would require the air quality baseline to be based on the level of emissions from specified sources; ~~and during 2001. The bill~~ would require each port to hold public hearings on the baseline data and discuss potential mitigation and control measures to reduce emissions from sources at the port, develop a date *not later than January 1, 2010*, by which it will meet its baseline for each source listed, ~~which would be required to be no~~

later than January 1, 2010, and report on January 1 of each year commencing in 2008 to the south coast district and the State Air Resources Board regarding the port's compliance, as specified. ~~This~~ The bill would require the state board, beginning April 1, 2010, and on April 1 of each year thereafter, if the emissions inventory for the Port of Los Angeles or the Port of Long Beach exceeds the baseline, to levy a fine on the port for each pollutant from each source, as specified.

This bill would also make legislative findings and declarations relating to air quality.

(2) This bill would make findings and declarations regarding the inapplicability of a general statute within the meaning of Section 16 or Article IV of the California Constitution.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature hereby finds and declares all of  
2 the following:

3 (a) Exhaust fumes from diesel fuel are known to cause cancer.

4 (b) A landmark study conducted by the South Coast Air  
5 Quality Management District, the "Multiple Air Toxics Exposure  
6 Study," found that 70 percent of all serious health risks  
7 attributable to mobile pollution sources are attributable to diesel  
8 engine exhaust.

9 (c) The federal Clean Air Act (42 U.S.C. Sec. 7401, et seq.)  
10 requires certain regions that have high levels of air pollution to  
11 demonstrate that construction of new highways will not worsen  
12 air pollution.

13 SEC. 2. Section 40459.2 is added to the Health and Safety  
14 Code, to read:

15 40459.2. The Port of Los Angeles shall develop a baseline for  
16 air quality for the port. In developing this baseline, the port shall

1 consult with the south coast district, the state board, and any  
2 other state or federal agency necessary to compile an accurate  
3 baseline inventory.

4 (a) The air quality baseline shall be based on data collected by  
5 the port regarding the level of emissions in the port during 2001  
6 from all of the following sources:

- 7 (1) Oceangoing vessels and harbor craft.
- 8 (2) Cargo handling equipment.
- 9 (3) Rail locomotives.

10 (4) Commercial motor vehicles, as defined in subdivision (b)  
11 of Section 15210 of the Vehicle Code.

12 (b) The air quality baseline shall be based on data collected by  
13 the port regarding the level of emissions in the port during 2001  
14 ~~from~~ of all of the following air pollutants:

- 15 (1) Oxides of nitrogen (NO<sub>x</sub>).
- 16 (2) Carbon monoxide (CO).
- 17 (3) PM 2.5 and PM 10, as defined in Section 39614.
- 18 (4) Particulate matter from diesel fuel.
- 19 (5) Sulfur dioxide (SO<sub>2</sub>).

20 (c) The Port of Los Angeles shall hold public hearings on the  
21 baseline data and discuss potential mitigation and control  
22 measures to reduce emissions from sources at the port.

23 (d) The Port of Los Angeles shall conduct an annual emissions  
24 inventory, beginning January 1, ~~2006~~ 2007, for emission year  
25 ~~2005~~ 2006, and each year thereafter, in order to compare the  
26 current emissions versus the 2001 emissions baseline.

27 (e) The Port of Los Angeles shall develop a date by which it  
28 will meet its 2001 baseline for each source listed, which shall be  
29 no later than January 1, 2010.

30 (f) On January 1, ~~2007~~ 2008, and on January 1 of each year  
31 thereafter, the Port of Los Angeles shall report to the south coast  
32 district and the state board regarding the port's compliance with  
33 subdivision (d), including, but not limited to, an accounting of  
34 the port's programs and efforts that are directed towards that  
35 compliance.

36 (g) Nothing in this section prevents the state board or the south  
37 coast district from adopting and implementing regulations for  
38 any source at any port in this state.

39 (h) Beginning April 1, 2010, and on April 1 of each year  
40 thereafter, if the most recent annual emissions inventory for the

1 Port of Los Angeles exceeds the baseline established pursuant to  
2 this section, the state board shall levy a fine on the port for each  
3 pollutant listed in subdivision (b), from each source listed in  
4 subdivision (a), that is above the baseline established pursuant to  
5 this section. The fine shall be no less than the estimated cost  
6 determined by the state board for reducing emissions to meet the  
7 baseline.

8 SEC. 3. Section 40459.3 is added to the Health and Safety  
9 Code, to read:

10 40459.3. The Port of Long Beach shall develop a baseline for  
11 air quality for the port. In developing this baseline, the port shall  
12 consult with the south coast district, the state board, and any  
13 other state or federal agency necessary to compile an accurate  
14 baseline inventory.

15 (a) The air quality baseline shall be based on data collected by  
16 the port regarding the level of emissions in the port during ~~2002~~  
17 ~~2001~~ from all of the following sources:

- 18 (1) Oceangoing vessels and harbor craft.
- 19 (2) Cargo handling equipment.
- 20 (3) Rail locomotives.
- 21 (4) Commercial motor vehicles, as defined in subdivision (b)  
22 of Section 15210 of the Vehicle Code.

23 (b) The air quality baseline shall be based on data collected by  
24 the port regarding the level of emissions in the port during ~~2002~~  
25 ~~2001~~ ~~from~~ of all of the following air pollutants:

- 26 (1) Oxides of nitrogen (NO<sub>x</sub>).
- 27 (2) Carbon monoxide (CO).
- 28 (3) PM 2.5 and PM 10, as defined in Section 39614.
- 29 (4) Particulate matter from diesel fuel.
- 30 (5) Sulfur dioxide (SO<sub>2</sub>).

31 (c) The Port of Long Beach shall hold public hearings on the  
32 baseline data and discuss potential mitigation and control  
33 measures to reduce emissions from sources at the port.

34 (d) The Port of Long Beach shall conduct an annual emissions  
35 inventory, beginning January 1, ~~2006~~ 2007, for emission year  
36 ~~2005~~ 2006, and each year thereafter, in order to compare the  
37 current emissions versus the ~~2002~~ 2001 emissions baseline.

38 (e) The Port of Long Beach shall develop a date by which it  
39 will meet ~~their 2002~~ *its* 2001 baseline for each source listed,  
40 which shall be no later than January 1, 2010.

1 (f) On January 1, ~~2007~~ 2008, and on January 1 of each year  
2 thereafter, the Port of Long Beach shall report to the south coast  
3 district and the state board *regarding* the port's compliance with  
4 subdivision ~~(e)~~ (d), including, but not limited to, an accounting of  
5 the port's programs and efforts that are directed towards that  
6 compliance.

7 (g) Nothing in this section prevents the state board or the south  
8 coast district from adopting and implementing regulations for  
9 any source at any port in this state.

10 (h) Beginning April 1, 2010, and on April 1 of each year  
11 thereafter, if the most recent annual emissions inventory for the  
12 Port of Long Beach exceeds the baseline established pursuant to  
13 this section, the state board shall levy a fine on the port for each  
14 pollutant listed in subdivision (b), from each source listed in  
15 subdivision (a), that is above the baseline established pursuant to  
16 this section. The fine shall be no less than the estimated cost  
17 determined by the state board for reducing emissions to meet the  
18 baseline.

19 SEC. 4. The Legislature finds and declares that due to the  
20 unique circumstances relating to air quality in port areas in the  
21 South Coast Air Quality Management District, a statute of  
22 general applicability cannot be enacted within the meaning of  
23 subdivision (b) of Section 16 of Article IV of the California  
24 Constitution.

25 SEC. 5. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 a local agency or school district has the authority to levy service  
28 charges, fees, or assessments sufficient to pay for the program or  
29 level of service mandated by this act, within the meaning of  
30 Section 17556 of the Government Code.